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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3971

11 **DEBORAH LYNN SEVILLA**
12 **3895 Old Hwy 53 #2**
13 **Clearlake, CA 95422**

A C C U S A T I O N

14 **Pharmacist License No. RPH 58263**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about April 21, 2006, the Board of Pharmacy issued Original Pharmacist
21 License Number RPH 58263 to Deborah Lynn Sevilla (Respondent). The License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on December
23 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.

28 4. Section **4011** of the Code provides that the Board shall administer and enforce both

1 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
2 Act [Health & Safety Code, § 11000 et seq.].

3 5. Section **4300** of the Code provides that every license issued by the Board may be
4 suspended or revoked.

5 **STATUTORY AND REGULATORY PROVISIONS**

6 6. Section **4301** of the Code provides, in pertinent part, that the Board shall take action
7 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
8 not be limited to, any of the following:

9 ...

10 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
11 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
12 whether the act is a felony or misdemeanor or not.

13 ...

14 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
15 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
16 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
17 to the extent that the use impairs the ability of the person to conduct with safety to the public the
18 practice authorized by the license.

19 ...

20 (j) The violation of any of the statutes of this state, or any other state, or of the United
21 States regulating controlled substances and dangerous drugs.

22 (k) The conviction of more than one misdemeanor or any felony involving the use,
23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
24 combination of those substances.

25 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
26 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.

14 . . .

15 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency.

19 . . .

20 7. Section **4327** of the Code states:

21 Any person who, while on duty, sells, dispenses or compounds any drug while under the
22 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

23 8. California Code of Regulations, title 16, section **1770**, states:

24 For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
28 licensee or registrant to perform the functions authorized by his license or registration in a manner

1 consistent with the public health, safety, or welfare.

2 **CONTROLLED SUBSTANCES**

3 9. Section **4021** of the Code states:

4 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
5 11053) of Division 10 of the Health and Safety Code.

6 10. Section **4022** of the Code states:

7 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use,
8 except veterinary drugs that are labeled as such, and includes the following:

9 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
10 prescription," "Rx only," or words of similar import.

11 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
12 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
13 in with the designation of the practitioner licensed to use or order use of the device.

14 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
15 prescription or furnished pursuant to Section 4006.

16 11. Section **4060** of the Code states:

17 No person shall possess any controlled substance, except that furnished to a person upon
18 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
19 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
20 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
21 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
22 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
23 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
24 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
25 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
26 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
27 labeled with the name and address of the supplier or producer.

28 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a

1 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
2 devices.

3 12. California Health and Safety Code section **11170** states:

4 No person shall prescribe, administer, or furnish a controlled substance for himself.

5 13. **Ativan** (lorazepam) is a Schedule IV controlled substance, a benzodiazepine, used as
6 an anxiolytic, hypnotic, and anticonvulsant. It is a dangerous drug within the meaning of Code
7 section 4022.

8 14. **Norco** (hydrocodone/APAP) is a Schedule III controlled substance, an opioid
9 analgesic combination, used for moderate to severe pain. It is a dangerous drug within the
10 meaning of Code section 4022.

11 15. **Soma** (carisoprodol) is a muscle relaxant. It is a dangerous drug within the meaning
12 of Code section 4022.

13 16. **Suboxone** (buprenorphine/naloxone) is a Schedule III controlled substance, used for
14 opioid dependence therapy. It is a dangerous drug within the meaning of Code section 4022.

15 **COST RECOVERY**

16 17. Section **125.3** of the Code provides, in pertinent part, that a Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Criminal Convictions)

22 18. Respondent is subject to disciplinary action under Code section 4301, subsection
23 (l), in that she has been convicted of crimes substantially related to the qualifications, functions,
24 and duties of a licensee. The circumstances are as follows:

25 a. On or about May 24, 2010, in Kern County Superior Court Case No. TM077474A,
26 Respondent was convicted of having violated California Vehicle Code section 23152(a)
27 (driving under the influence of alcohol and/or drugs).

28 b. On or about March 7, 2011, in Lake County Superior Court Case No. CR 923723,

1 Respondent was convicted of having violated California Vehicle Code section 23152(a)
2 (driving under the influence of alcohol and/or drugs).

- 3 c. On or about March 7, 2011, in Lake County Superior Court Case No. CR925423,
4 Respondent was convicted of having violated California Penal Code section 484 (petty
5 theft).

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Convictions Involving Dangerous Drugs or Alcohol)

8 19. Respondent is subject to disciplinary action under Code section 4301, subsection (k),
9 in that she has been convicted of crimes involving the use, consumption or self-administration of
10 dangerous drugs and/or alcoholic beverages, as follows:

- 11 a. On or about May 24, 2010, in Kern County Superior Court Case No. TM077474A,
12 Respondent was convicted of having violated California Vehicle Code section
13 23152(a)(driving under the influence of alcohol and/or drugs).
14 b. On or about March 7, 2011, in Lake County Superior Court Case No. CR 923723,
15 Respondent was convicted of having violated California Vehicle Code section
16 23152(a)(driving under the influence of alcohol and/or drugs).
17 c. On or about March 7, 2011, in Lake County Superior Court Case No. CR925423,
18 Respondent was convicted of having violated California Penal Code section 484 (petty
19 theft). The conduct underlying this conviction was Respondent's theft of drugs, for her
20 own consumption, from her employer while Respondent was employed as a pharmacist.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Dangerous Use of Drugs and/or Alcohol)

23 20. Respondent is subject to disciplinary action under Code section 4301, subsection (h),
24 in that she administered to herself, or used, controlled substances and/or alcoholic beverages to
25 the extent or in a manner as to be dangerous or injurious to herself, to a person holding a license
26 under this chapter, or to any other person or to the public, and/or to the extent that the use
27 impaired the her ability to conduct with safety to the public the practice authorized by her license,
28 as follows:

- 1 a. On or about April 1, 2010, in Kern County, California, Respondent was observed
2 driving a vehicle erratically. A police officer observed that Respondent was extremely
3 confused, lethargic and drowsy, and displayed objective signs of being under the
4 influence of and impaired by alcohol and/or drugs. Respondent stated to the officer that
5 she was on her way home from work at the K-Mart pharmacy. Based on this conduct,
6 on or about May 24, 2010, in Kern County Superior Court Case No. TM077474A,
7 Respondent was convicted of having violated California Vehicle Code section 23152(a)
8 (driving under the influence of alcohol and/or drugs).
- 9 b. On or about September 13, 2010, Respondent was observed driving a vehicle
10 erratically. A police officer observed that Respondent displayed objective signs of
11 being under the influence of and impaired by drugs. Respondent stated to the officer
12 that she was on her way home from her work at a Walmart pharmacy. Police officers
13 found multiple medications in Respondent's vehicle. Based on this conduct, on or
14 about March 7, 2011, in Lake County Superior Court Case No. CR 923723, Respondent
15 was convicted of having violated California Vehicle Code section 23152(a) (driving
16 under the influence of alcohol and/or drugs).
- 17 c. On or about September 15, 2010, in Clearlake, California, Respondent informed a
18 police officer that she was suffering severe withdrawal effects because she was
19 "detoxing" from narcotics.
- 20 d. On or about November 15, 2010, Respondent stated to an investigator for the Board of
21 Pharmacy that she was addicted to pain medications.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 (Acts of Dishonesty)

24 21. Respondent is subject to disciplinary action under section 4301(f), in that she
25 committed an act involving moral turpitude, dishonesty, fraud, deceit or corruption, as follows:

- 26 a. On or about September, 2010, in Clearlake, California, Respondent stole pain
27 medications including, but not limited to, Ativan (lorazepam), Norco
28 (hydrocodone/APAP), Soma (carisoprodol), and Suboxone (buprenorphine/maloxone)

1 from Walmart, where she was employed as a pharmacist. As a result of this conduct, on
2 or about March 7, 2011, in Lake County Superior Court Case No. CR925423,
3 Respondent was convicted of having violated California Penal Code section 484 (petty
4 theft).

5 **FIFTH CAUSE FOR DISCIPLINE**

6 (Practicing While Under the Influence of Drugs)

7 22. Respondent is subject to disciplinary action under Code section 4301, subsections (j)
8 and (o), and under Code section 4327, in that she violated state laws regarding controlled
9 substances by selling, dispensing or compounding drugs while under the influence of controlled
10 substances. The circumstances are as follows:

- 11 a. On or about September 13, 2010, in Clearlake, California, Respondent worked as a
12 pharmacist at the Walmart pharmacy while under the influence of controlled substances.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 (Unlawful Possession and use of Drugs)

15 23. Respondent is subject to disciplinary action under section 4301, subsections (h), (j)
16 and (o), in that she violated state statutes regulating possession and use of controlled substances
17 and dangerous drugs and violated state laws governing pharmacy. The circumstances are as
18 follows:

- 19 a. On or about September, 2010, in Clearlake, California, Respondent stole medications
20 including, but not limited to, Lorazepam, Hydrocodone, Clonazepan, Oxycodone,
21 Methadone, Carisoprodol and Subaxone, from Walmart, where she was employed as a
22 pharmacist. Respondent then ingested these medications.
- 23 b. Respondent possessed and used these drugs in violation of Code sections 4051 and
24 4060 and in violation of Health and Safety Code sections 11170, 11350, 11377 and
25 11550.

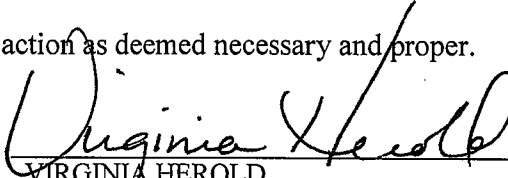
26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Pharmacy issue a decision:

- 1 1. Revoking or suspending Original Pharmacist License Number RPH 58263, issued to
2 Deborah Lynn Sevilla;
3 2. Ordering Deborah Lynn Sevilla to pay the Board of Pharmacy the reasonable costs of
4 the investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;
6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED: _____

8/25/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant